

Memorandum of Understanding (MOU)
between the U.S. Department of Energy (DOE) and
the State of Ohio Bureau of Workers' Compensation (BWC)

1. PURPOSE

The U.S. Department of Energy (DOE) and the State of Ohio Bureau of Workers' Compensation (BWC) enter into this agreement to facilitate coordination and cooperation between the parties under subtitle D of the Energy Employees Occupational Illness Compensation Program Act of 2000 (Act) (Pub. L.106-398).

2. BACKGROUND

- A. The Act, in general, establishes a program for compensating covered workers made ill during nuclear weapons production for the DOE. Subtitle D of the Act provides for DOE assistance for DOE contractor employees in filing State workers' compensation claims for work related illnesses. Under that subtitle, DOE may, pursuant to agreements with the chief executive officers of the States (state agreement), assist DOE contractor employees, or the estates of deceased contractor employees, in filing claims for State workers' compensation for illnesses or deaths that arose out of and in the course of employment at DOE facilities from exposure to toxic substances. As part of the assistance process, DOE is authorized, pursuant to state agreements, to establish procedures under which DOE contractor employees may submit applications for DOE assistance and under which DOE will review the applications to determine if there is reasonable evidence that illnesses or deaths are related to DOE employment at a DOE nuclear weapons facilities. If DOE determines that there is reasonable evidence and if DOE has entered into a state agreement, it may submit an application for assistance to a Physicians Panel for a determination as to whether an illness or death is related to work at a DOE nuclear weapons facility. If the Physician Panel finds that it is as least as likely as not that the DOE contractor employee's exposure to a toxic substance at a DOE facility during the course of employment by a DOE contractor was a significant factor in aggravating, contributing to, or causing the illness or death of the worker, DOE, to the extent permitted by law, may assist the employee to file a State workers' compensation claim and direct the DOE contractor not to contest a State workers' compensation system claim or award.
- B. The Act establishes a separate compensation program for covered employees, or where applicable the survivors of such employees, suffering from beryllium disease, certain cancers caused by radiation, and or chronic silicosis incurred by such employees during nuclear weapons production for DOE. The Act provides that the covered employees, or their survivors, are eligible for lump sum payments of \$150,000, and for future medical expenses associated with that disease, that will be paid from a Federal compensation fund established on the books of the Treasury Department. This latter program is not relevant to this Agreement.

3. AGREEMENT AND UNDERSTANDING BETWEEN DOE AND THE STATE

DOE and the State of Ohio BWC enter into this agreement to facilitate operation of the DOE contractor worker assistance program, established pursuant to subtitle D of the Act, under which DOE may assist former or current contractor employees in filing claims under the State's workers' compensation system.

- A. Pursuant to subtitle D, the DOE will provide assistance to DOE contractor employees in filing claims under the State of Ohio's workers' compensation system for an illness caused by exposure to a toxic substance at a DOE facility in accordance with the process set forth at 10 CFR Part 852.
- B. A positive determination pursuant to Part 852 has no effect on the scope of State workers' compensation proceedings, the conditions for compensation, or the rights and obligations of the participants in the proceeding; provided that consistent with subtitle D such a determination will prevent DOE and may prevent a DOE contractor from contesting an applicant's workers' compensation claim.
- C. In the processing of any application for compensation or benefits under Chapters 4121 and 4123 of the Ohio Revised Code filed by a current or former DOE contractor employee, BWC reserves the right to schedule the DOE contractor employee for an examination with a physician of BWC's choosing, in accordance with Ohio law.
- D. In the processing of any application for compensation or benefits under Chapters 4121 and 4123 of the Ohio Revised Code filed by a current or former DOE contractor employee, BWC shall consider as relevant medical evidence, but shall not be bound by, the determination of any Physicians Panel appointed in accordance with subtitle D.

4. AREAS OF COOPERATION

- A. DOE agrees to promptly notify BWC's designated representative, of workers' compensation claims that DOE has accepted as DOE work-related illnesses caused by exposure to toxic substances in response to a request for such information by BWC.
- B. Upon request by the DOE, BWC agrees to provide, in a timely manner, information concerning the status or outcome of a workers' compensation claim filed with BWC by a DOE contractor employee or the employee's estate.
- C. Upon request by BWC, DOE agrees to provide to BWC the following information, in a timely manner, to the extent as permitted under federal law:
 - 1. Medical evidence provided to the DOE Physician Panel for an employee filing for workers' compensation benefits in Ohio.
 - 2. National Institute for Occupational Safety and Health dose reconstruction information providing an estimate of exposure and likelihood of risk as it relates to employees who are filing for workers' compensation benefits in Ohio.
 - 3. The final recommendations and comments of the Physician Panel for an employee who is filing for workers' compensation benefits in Ohio.

4. Any other information in the possession of the DOE that may be relevant to the Ohio workers' compensation claim filed by an employee.
- D. In the event an employee files an Ohio workers' compensation claim concurrently with an application with the DOE, BWC may defer its decision on the compensability of the state claim until the DOE process is complete, provided the employee provides consent to the deferral and to the extent permitted by Ohio law.
- E. BWC will refer individuals filing Ohio workers' compensation claims to the DOE in the event it appears that the individual may have an illness that is subject to Subtitle D of the Act.
- F. To facilitate cooperation between the DOE and BWC, both agencies shall designate contact persons to coordinate questions and concerns that may arise during implementation of this agreement.
- G. DOE agrees to provide BWC periodically with a list of providers comprising the Physician Panel as the list is updated.

5. IMPLEMENTATION

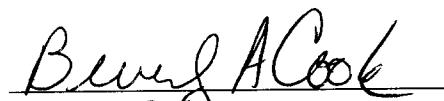
The DOE office responsible for implementation of this agreement is the Office of Environment, Safety and Health. The State official responsible for the implementation of this agreement is the Administrator/CEO of BWC.

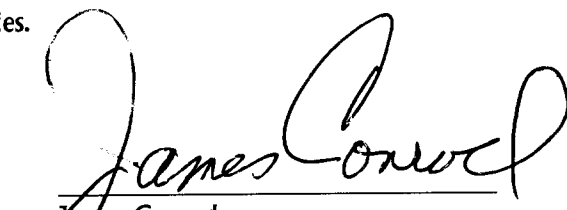
6. AMENDMENT AND TERMINATION

This Agreement may be amended or modified upon written agreement by both parties to the Agreement. The Agreement may be terminated upon ninety (90) days written notice by either party.

7. EFFECTIVE DATE

This Agreement is effective when signed by both parties.


Beverly A. Cook
Assistant Secretary for
Environment, Safety and Health
U.S. Department of Energy


James Conrad
Administrator/CEO BWC
State of Ohio

Dated: 9/13/02